

ASSEMBLY BILL

No. 1183

Introduced by Assembly Member Ridley-Thomas

February 21, 2003

An act to add Title 7.76 (commencing with Section 67485) to the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 1183, as introduced, Ridley-Thomas. California and Mexico Border Economic Infrastructure Financing Authority.

(1) Under existing law, various federal, state, and local agencies regulate activities relating to providing the infrastructure for coordinating economic development between California and Mexico.

This bill would establish the California and Mexico Border Economic Infrastructure Financing Authority, also known as the CalMex Border Economic Infrastructure Financing Authority, to be composed of a specified membership, within the office of the Treasurer. It would require the authority to issue revenue bonds for the construction and improvement of infrastructure projects within Imperial County and within 100 kilometers of the border between Imperial County and Mexico.

The bill would require the authority to establish and maintain the Infrastructure Development Fund into which specified fees charged by the authority would be deposited and be available for the expenses of the authority. It would require the authority to report no later than January 1, 2006, and biennially thereafter, to the Governors of California and Baja California, Mexico, and the Legislature regarding authority business. By requiring the participation of local entities in the authority, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) According to findings by the Southwest Center for
4 Environmental Research and Policy, the population of 25 United
5 States counties and 35 Mexican municipalities along the Mexican
6 border is expected to double by 2020, reaching 24 million
7 residents. These population trends will lead to escalating
8 infrastructure deficits for border communities, including, but not
9 limited to, highway, airport and port facilities, railways, and
10 environmental, water, and energy needs which must be addressed
11 to ensure economic competitiveness and quality of life for border
12 residents.

13 (b) Significant opportunities exist for California firms in trade
14 with Mexico as evidenced by both of the following:

15 (1) According to the Technology, Trade, and Commerce
16 Agency, in the first six years of the North American Free Trade
17 Agreement (NAFTA), California exports to Mexico have
18 increased nearly 129 percent or \$8.4 billion. California exports to
19 Mexico directly and indirectly support approximately 179,000
20 California jobs.

21 (2) Manufacturing growth among maquiladora operations in
22 Tijuana and Mexicali grew from 212,000 employees in 1985 to 1.1
23 million in 1999. Significant trade opportunities exist for

1 California firms to become suppliers to those border industrial
2 complexes.

3 (c) State government support to promote associations and
4 strategic alliances among California and Mexican business
5 partners would facilitate these trade linkages.

6 SEC. 2. Title 7.76 (commencing with Section 67485) is added
7 to the Government Code, to read:

8
9 TITLE 7.76. CALIFORNIA AND MEXICO BORDER
10 ECONOMIC INFRASTRUCTURE FINANCING
11 AUTHORITY
12

13 CHAPTER 1. DEFINITIONS
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15 67485. As used in this title, the following terms shall have the
16 following meanings, unless the context indicates otherwise:

17 (a) "Authority" means the California and Mexico Border
18 Economic Infrastructure Financing Authority, also known as the
19 CalMex Border Economic Infrastructure Financing Authority,
20 established pursuant to this title or, if the authority is abolished, the
21 board, body, or commission succeeding to the principal functions
22 thereof or to whom the power conferred upon the authority by this
23 title is given by law.

24 (b) "Cost," as applied to a project, shall include all of the
25 following:

26 (1) The cost of the acquisition of all land, rights-of-way,
27 property rights, easements, and interests acquired by the authority
28 for project construction.

29 (2) The cost of demolishing or removing any buildings or
30 structures on land so acquired, including the cost of acquiring any
31 lands to which the buildings or structures may be moved.

32 (3) The cost of all machinery and equipment.

33 (4) Finance charges.

34 (5) Interest prior to and during project construction.

35 (6) For a period not exceeding one year after completion of
36 construction, the cost of engineering, feasibility studies,
37 environmental studies, plans, specifications, surveys, expenses
38 necessary or incident to determining the feasibility or
39 practicability of financing or constructing any project,
40 administrative expenses, and any other expense that may be

1 necessary or incident to the construction of any project, the
2 financing of the project, and the placing of any project in
3 operation. Any moneys paid or advanced to the authority with its
4 approval for surveys, feasibility studies, preparation of plans and
5 specifications, and engineering services in connection with the
6 construction of the project shall be regarded as a part of the cost
7 of the project and shall be reimbursed out of the proceeds of the
8 bonds issued for the project as authorized in this title.

9 (c) “Project” means traditional public works projects that are
10 intended to strengthen the infrastructure of an area, that are
11 deemed by the authority to be beneficial to employment and local
12 economic development in the state economy, including the local
13 economy of Imperial County, and that are located within this
14 county and within 100 kilometers of the border between Imperial
15 County and Mexico.

16 (d) “Revenue bonds” means bonds of the authority issued
17 under this title.

18 (e) “Revenue-generating projects” means projects of the
19 following types:

20 (1) Cogeneration or energy-producing facilities.

21 (2) Economic and business development supporting, directly
22 or indirectly, trade alliances between California and Mexico.

23 (3) Environmental mitigation and improvement.

24 (4) Telecommunications.

25 (5) Transportation.

26 (6) Sewage and water facilities.

27 Examples of these projects include, but are not limited to,
28 industrial development projects supporting business retention and
29 expansion, industrial parks, small business incubators, food
30 processing and packaging, air cargo facilities, toll roads,
31 alternative energy development, and revenue-generating water
32 and sewer projects.

34 CHAPTER 2. ORGANIZATION

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36 67486. (a) The California and Mexico Border Economic
37 Infrastructure Financing Authority, also known as the CalMex
38 Border Economic Infrastructure Financing Authority, is hereby
39 established in the office of the Treasurer.

1 (b) The authority shall issue revenue bonds for the construction
2 and improvement of infrastructure projects that promote
3 associations and strategic alliances between California and
4 Mexican business partners and public entities.

5 (c) The first meeting of the authority shall be convened by the
6 Treasurer.

7 67487. (a) The board of directors of the authority shall
8 consist of the following persons:

9 (1) Three directors appointed by the Governor, subject to
10 confirmation by the Senate, who shall have demonstrated
11 experience in environmental issues, infrastructure, or economic
12 development. One of these directors shall be a resident of Imperial
13 County.

14 (2) Two directors designated by the Imperial Valley
15 Association of Governments representing Imperial County.

16 (3) The Controller.

17 (4) The Treasurer.

18 (b) The initial appointments to the authority shall be made no
19 later than January 31, 2004. The initial members of the authority
20 shall immediately enter upon their duties. Of the initial appointees
21 made by the Governor, one shall serve for a period of one year and
22 two shall serve for a period of three years. The initial appointees
23 made by the Imperial Valley Association of Governments shall
24 serve for a period of two years.

25 (c) Thereafter, each member shall serve for a period of three
26 years, except that any person appointed to fill a vacancy shall serve
27 only for the duration of the unexpired term. Any member of the
28 authority shall be eligible for reappointment.

29 (d) The Treasurer shall designate an advisory body to the
30 authority comprised of not less than four residents of Baja
31 California, Mexico, who possess economic development expertise
32 or extensive knowledge of banking and finance.

33 (e) All members of the authority shall serve on the authority
34 without compensation.

35 (f) The authority shall meet at the call of the chairperson, at the
36 request of a majority of its members, or at the request of the
37 Governor. A majority of the members of the authority constitutes
38 a quorum for the transaction of business.

39 (g) The chairperson of the authority shall appoint an executive
40 director, who shall serve at the pleasure of the authority and shall

1 receive an annual salary established by the chairperson of the
2 authority. The authority may delegate to the executive director the
3 authority to enter contracts on behalf of the authority. The
4 authority may employ any additional staff it deems necessary and
5 appropriate to carry out the provisions of this title.

6 (h) The authority shall charge fees commensurate with its
7 direct expenses in performing its duties pursuant to this title.
8 Amounts received under this section shall be deposited in the
9 Infrastructure Development Fund, which is hereby created, and
10 shall be available, upon appropriation by the Legislature, for the
11 expenses of the authority. Until the time that fees are received by
12 the authority and appropriated pursuant to this section for the
13 expenses of the authority, the authority may borrow any moneys
14 that may be required for the purpose of meeting necessary
15 expenses of initial organization and operation of the authority.

16 (i) The authority shall develop rules and regulations governing
17 its operation, including rules related to ethics, conflict of interest,
18 and dismissal of its members, and shall have power and authority
19 to employ the entities, agencies, consultants, attorneys, and other
20 employees as necessary in its judgment.

21 67488. The Treasurer shall serve as chair of the authority.

22 CHAPTER 3. GENERAL POWERS

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24 67490. The authority may do all of the following:

25 (a) Adopt bylaws for the regulation of its affairs and the
26 conduct of its business.

27 (b) Maintain an office at the place or places within the state it
28 may designate.

29 (c) Engage the services of private consultants to render
30 professional and technical assistance and advice to carry out the
31 purposes of this title.

32 (d) Make and enter into all contracts and agreements necessary
33 or incidental to the performance of its duties and the execution of
34 its powers under this title.

35 (e) Receive and accept from any federal or state agency, grants
36 for, or in aid of, the completion of any project, and receive and
37 accept aid or contributions from any public or private source of
38 money, property, or labor, or other things of value, to be held, used,
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1 and applied only for the purposes for which the grants and
2 contributions are made and for the purposes of this title.

3 (f) Obtain any federal consent or authorization necessary or
4 desirable to carry out this title. To that end, no project or other
5 action of the authority may conflict with any treaty or other law of
6 the United States or Mexico.

7 (g) Coordinate projects with federal and local agencies,
8 including the governments of Mexico and the United States. The
9 authority shall work in concert with all levels of government and
10 augment their efforts.

11 (h) Collect, maintain, and provide financial, economic,
12 governmental, and social data on local government units pertinent
13 to their ability to administer industrial development revenue
14 bonds.

15 (i) Assist local authorities in the planning, preparation,
16 marketing, and sale of revenue bonds to reduce cost, protect the
17 issuer's credit, and determine public benefits and detriments.

18 (j) Prepare guidelines or assist in the preparation of
19 informational documents necessary for offerings under
20 subdivision (i).

21 (k) Collect, maintain, and provide information on debt
22 authorized, sold, and outstanding, and serve as a clearinghouse for
23 local issues of revenue bonds.

24 (l) Maintain contact with municipal bond underwriters, credit
25 rating agencies, investors, and others to improve the market for
26 local government debt issues.

27 (m) Undertake or commission studies on methods for reducing
28 the costs of state and local debt issues.

29 (n) Recommend changes in state law and local practices to
30 improve the sale and servicing of the local bonds.

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32 CHAPTER 4. ISSUANCE OF BONDS
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34 67491. (a) Whenever the authority, with the concurrence of
35 the Treasurer, deems it necessary to incur a revenue bonded
36 indebtedness for the acquisition, construction, completion, or
37 repair of improvements, works, property, or facilities authorized
38 by this title in accordance with the objectives specified in Section
39 67486, the authority shall, upon two-thirds vote of the membership
40 of the authority, issue those revenue bonds in accordance with

Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5. No election shall be required to authorize the issuance of the bonds.

(b) Notwithstanding that the bonds, notes, or other obligations may be payable from a special fund, they shall be, and be deemed to be, for all purposes negotiable instruments, subject only to the provisions of the bonds, notes, or other obligations for registration.

(c) The bonds may be issued as serial bonds or as term bonds, or the authority, at its discretion, may issue bonds of both types.

(d) The bonds shall be authorized by resolution of the authority and shall bear the date or dates, mature at the time or times, not exceeding 30 years, and not to exceed 50 years for long-life projects, from their respective dates, bear interest at the rate or rates, fixed or variable, be payable at the time or times, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in lawful money of the United States of America at the place or places, and be subject to the terms of redemption, as the resolution or resolutions may provide.

(e) The Treasurer shall act as agent for sale of the bonds or notes and shall sell the bonds or notes within 60 days of receipt of a certified copy of the authority's resolution authorizing the sale of the bonds, except that the authority may adopt a resolution to extend the 60-day period. The sales may be a public or private sale, and for the price or prices, and on the terms and conditions, as the authority shall determine or delegate to the Treasurer to determine, after giving due consideration to the recommendations of any participating party to be assisted from the proceeds of the bonds or notes.

(f) Pending preparation of the definitive bonds, the Treasurer may issue interim receipts, certificates, or temporary bonds, which shall be exchanged for the definitive bonds.

(g) No bond issued or sold pursuant to this title shall be or become a lien, charge, or liability against the State of California or against its property or funds. Every bond issued pursuant to this title shall contain a recital on the face thereof stating that neither the payment of the principal nor any part thereof, nor any interest thereon, constitutes a debt, liability, or general obligation of the State of California. The authority has no power at any time or in any manner to pledge the credit or taxing power of the state.

1 67492. Any resolution or resolutions authorizing any bonds,
2 or any issue of bonds, may contain provisions, which shall be a part
3 of the contract with the holders of the bonds to be authorized, as
4 to the following:

5 (a) Pledging all or any part of the revenues of any
6 revenue-generating project or any revenue-producing contract or
7 contracts made by the authority with any individual, partnership,
8 corporation, or association or other body, public or private, or
9 other moneys or assets of the authority to secure the payment of
10 the bonds or of any particular issue of bonds, subject to any
11 agreement with bondholders that may then exist.

12 (b) The rentals, fees, purchase payments, and other charges to
13 be charged, and the amounts to be raised in each year thereby, and
14 the use and disposition of the revenues.

15 (c) The setting aside of reserves or sinking funds, and the
16 regulation and disposition thereof.

17 (d) Limitations on the right of the authority or its agent to
18 regulate the use of the project or projects to be financed out of the
19 proceeds of the bonds or any particular issue of bonds.

20 (e) Limitations on the purpose to which the proceeds of sale of
21 any issue of bonds then or thereafter to be issued may be applied,
22 and pledging the proceeds to secure the payment of the bonds or
23 any issue of the bonds.

24 (f) Limitations of the issuance of additional bonds, the terms
25 upon which additional bonds may be issued and secured and the
26 refunding of outstanding bonds.

27 (g) The procedure, if any, by which the terms of any contract
28 with bondholders may be amended or abrogated, the amount of
29 bonds that the holders who are required to consent thereto, and the
30 manner in which the consent may be given.

31 (h) Limitations on expenditures for administrative or other
32 expenses of the authority.

33 (i) Defining the act or omissions to the act that constitute a
34 default in the duties of the authority to holders of its obligations,
35 and providing the rights and remedies of the holders in the event
36 of a default.

37 (j) The mortgaging of any project, or any part thereof, for the
38 purpose of securing the bondholders.

1 (k) The mortgaging of land, improvements, or other assets
2 owned by a participating party for the purpose of securing the
3 bondholders.

4 (l) Procedures for the selection of projects to be financed with
5 the proceeds of the bonds authorized by the resolution if the bonds
6 are to be sold in advance of the designation of the projects, and for
7 selection of participating parties to receive the financing.

8 (m) Covenants or other provisions relating to the bonds issued
9 thereunder requiring the authority to fix, prescribe, and collect
10 rates, tolls, fees, rentals, or other charges in connection with the
11 services and facilities furnished from the project acquired or
12 constructed from the proceeds of bonds, and in connection with
13 ensuring that the rates, fees, rentals, or other charges shall be
14 sufficient to pay the principal of and interest on the bonds as they
15 become due, together with all expenses of maintenance and repair
16 of the project and any additional sums that may be required for any
17 sinking fund, reserve fund, or other special fund provided for the
18 further security of the bonds, or as a depreciation charge or other
19 charge in connection with the project.

20 (n) Covenants or other provisions relating to the collection,
21 deposit, and safekeeping of the revenues, the permissible uses
22 thereof, the special fund or funds to be kept for the payment of
23 principal and interest of the bonds, including reserve, sinking,
24 bond service, redemption and trust funds, and any bond payable
25 from the revenue fund that may be paid from any such special fund
26 set up therefor; the appointment of a trustee; the permissible
27 investments for moneys in the funds, or any thereof, the accounts
28 and records to be kept, audits and examination thereof by
29 bondholders and others; and reports to be made by the authority.
30 Any resolution providing for the appointment of a trustee shall
31 limit the trustee's power of investment to only those investments
32 that are duly authorized by the authority.

33 67493. Neither the directors of the authority, nor any person
34 executing the bonds or notes issued in accordance with this title,
35 shall be liable personally on the bonds or notes, or be subject to any
36 personal liability or accountability by reason of the issuance
37 thereof.

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CHAPTER 5. ELIGIBLE PROJECTS

67495. The authority shall establish guidelines for the selection of projects to receive financial assistance from the authority. These guidelines shall be based upon the economic soundness of the project itself and a reasonable expectation that all financial obligations of the project can be met by the participating parties.

67496. Project proposals may be submitted to the authority by the city councils of cities in the County of Imperial, the board of supervisors of this county, as well as by strategic private sector alliances based in the state, or by collaborative alliances comprised of both public and private sector entities based in the state. It is the intent of the Legislature to authorize the submission of project proposals by the aforementioned proposing entities for projects along a 100-kilometer band contiguous to the border between Imperial County and Mexico.

CHAPTER 6. REPORTING REQUIREMENT

67497. Not later than January 1, 2006, and biennially thereafter, the authority shall submit to the Governors of California and Baja California, Mexico, and the Legislature, a status report on all related projects and initiatives underway pursuant to this title.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.